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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

PATHFINDER AVIATION, INC.,)	
)	
Plaintiff,)	
)	Case No.: 3:15-cv-00200-HRH
vs.)	
)	
XTO ENERGY, INC. and SCOTT)	
GRIFFITH,)	
)	
Defendant.)	

**PLAINTIFF'S MOTION TO SUBSTITUTE HAS AVIATION, LLC FOR PATHFINDER
AVIATION, INC. AS PLAINTIFF**

COMES NOW Plaintiff, Pathfinder Aviation, Inc. ("Pathfinder"), by and through undersigned counsel of record, and hereby moves the Court to substitute HAS Aviation, LLC for Pathfinder as the Plaintiff in this litigation, pursuant to Fed. R. Civ. P. 25(c). As of September 12, 2016, all rights, claims, and obligations attendant to this litigation have been assigned from Pathfinder to HAS Aviation, LLC. Rule 25(c) provides that if "an interest is transferred, the action may be continued against the original party unless the Court, on motion, orders the transferee to be substituted in the action or joined with the original party." Fed. R. Civ. P. 25(c). The Rule thus

simply requires that an interest be transferred during the pendency of litigation such that the Court in its discretion may direct that the transferee be substituted or joined as a party.¹ The Court has wide discretion under Rule 25(c) to effectuate its “primary purpose,” which courts have long recognized is to ensure that “the litigation [is] conducted by the real party in interest.”²

Because the litigation interests of this suit have transferred by assignment to HAS Aviation, LLC, Plaintiff requests a likewise substitution of the new real party in interest to reflect this transfer. Undersigned counsel for Pathfinder will continue as counsel for HAS Aviation, and the corporate disclosure information previously provided to the Court has not changed. See Docket No. 16, filed November 25, 2016.

DATED this 12th day of September, 2016.

BIRCH HORTON BITTNER & CHEROT
Attorneys for Plaintiff

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¹ See *Esparza v. Indymac Bank, F.S.B.*, 2010 WL 2925391, at *2 (N.D. Cal. 2010). (decision to grant or deny substitution within “sound discretion of the court.”).

² *Montecatini Societa Generale per L'Industria Mineraria e Chimica v. Humble Oil & Refining Co.*, 261 F. Supp. 587, 590-91 (D. Md. 1966); see also *Hirsch v. Bruchhausen*, 284 F.2d 783, 786 (2d Cir. 1960) (finding that, under Rule 25(c), substitution was appropriate “to make sure that the real issue was litigated between the parties actually involved”).

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 12th day of September, 2016, a true and correct copy of the foregoing was served on the following via hand delivery:

Ms. Barat M. LaPorte
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By: /s/ David Karl Gross